IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

Bail Appl..No. 6302 of 2007()

CC.449/2001 of J.M.F.C.-V,KOZHIKODE
CRIME NO.5/97 OF KOHIKODE CITY TRAFFIC POLICE STATION.

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PETITIONER/ACCUSED

NANNANCHERY SHARAFUDHEEN,
S/O MOIDEENHAJI, PONMUNDAM AMSOM AND DESOM,
TIRUR, MALAPPURAM DISTRICT.

BY ADV. SRI.T.KRISHNAN UNNI
SRIC.M.MOHAMMED IQUABAL

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6302 OF 2007

Dated this the 17th day of October, 2007

ORDER

The petitioner is the 2nd accused in a crime registered in 1997. Investigation was completed. Final report was filed. Cognizance was taken. The petitioner was not available for trial. The case against him was transferred to the list of Long Pending Cases. The petitioner later appeared and the case was recalled from the list of Long Pending Cases. After sometime, the petitioner allegedly did not appear. Subsequently, the case against him has again been transferred to the list of Long Pending Cases. Coercive processes have been issued by the learned Magistrate against the petitioner. The petitioner finds such coercive processes chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He faces the

allegations for bailable offences only. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge